

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

PATRICK HYDE)	
Claimant)	
VS.)	
)	
ALLEN'S VAN & STORAGE)	Docket Nos. 173,376
Respondent)	& 184,959
AND)	
)	
UNITED STATES FIDELITY & GUARANTY CO.)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

ON August 18, 1994, the application of the respondent for review of an Order entered by Administrative Law Judge Robert H. Foerschler, dated July 11, 1994, came on for oral argument.

APPEARANCES

The claimant appeared by and through his attorney, Samuel J. Wells of Kansas City, Kansas. The respondent and its insurance carrier appeared by and through their attorney, Patricia A. Wohlford of Overland Park, Kansas. The Kansas Workers Compensation Fund appeared by and through its attorney, Katie Baird of Prairie Village, Kansas.

RECORD

The record consists of the transcript of proceedings on February 10, 1994, and the transcript of proceedings on June 30, 1994, together with exhibits admitted into evidence at those hearings.

ISSUES

Respondent appeals from a July 11, 1994 Order approving modifications to a vocational rehabilitation plan which will, as modified, call for retraining of the claimant as a general electrician at the Northeast Kansas Area Vocational and Technical School in Atchison, Kansas. The respondent contends that the Order exceeds the jurisdiction of the Administrative Law Judge because the plan does not appropriately adhere to the priorities set forth in K.S.A. 44-501(g); the plan is not reasonable or objective; the plan is not reasonably calculated to return the claimant to a comparable wage; and, the plan should offer placement services only.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The jurisdiction of the Appeals Board is limited to de novo review of final awards and review of preliminary orders where it is alleged that the Administrative Law Judge has exceeded his or her jurisdiction. K.S.A. 44-551 and 44-534a. K.S.A. 44-534a lists issues which are to be considered jurisdictional and subject to review on appeal from preliminary orders. The appeal by the respondent in this case does not raise any of the issues listed in K.S.A. 44-534a. The arguments by the respondent also do not otherwise address the jurisdiction of the Administrative Law Judge. The respondent's contentions are best characterized as contentions that the Administrative Law Judge has committed an error in the exercise of his jurisdiction on the matters relating to selection and approval of a vocational rehabilitation plan. The Appeals Board finds that these contentions do not raise issues subject to review.

AWARD

It is therefore ordered that the preliminary decision of Administrative Law Judge Robert H. Foerschler, dated July 11, 1994, should be and is considered to remain in full force and effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of August, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c:

Samuel J. Wells, 800 New Brotherhood Bldg., 753 State Av., Kansas City, KS 66101
Patricia A. Wohlford, PO Box 26441, Overland Park, KS 66225
Catherine Baird, 3500 W. 75th, Suite 302, Prairie Village, KS 66208
Robert H. Foerschler, Administrative Law Judge
George Gomez, Director